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EXAMINER

CHOI, PETER H

ART UNIT

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3623

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/834,834	Applicant(s) PARMASAD ET AL.	
	Examiner PETER CHOI	Art Unit 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a **FINAL** office action upon examination of application number 09/834,834. Claims 1-39 are pending in the application and have been examined on the merits discussed below.

Response to Amendment

2. In the response filed August 14, 2009, claim 1 has been amended, and no claims have been canceled, withdrawn, or newly presented for examination.

Response to Arguments

3. Applicant's arguments filed August 14, 2009 have been fully considered but they are not persuasive.

Generally, the Applicant's arguments with respect to claims 1-39 fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Contrary to the Applicant's assertions, the arguments submitted by the Applicant fail to cite specific features of the claims that were not present in the cited reference, nor do said arguments specifically point out how the language of the claims patentably distinguishes them from the reference. As per 37 CFR 1.111(b), and further noted by Applicant:

(b) In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the

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applicant or patent owner must be reduced to a writing which **distinctly and specifically points out the supposed errors in the examiner's action** and must reply to every ground of objection and rejection in the prior Office action. **The reply must present arguments pointing out the specific distinctions believed to render the claims**, including any newly presented claims, **patentable over any applied references**. If the reply is with respect to an application, a request may be made that objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until allowable subject matter is indicated. The applicant's or patent owner's reply must appear throughout to be a *bona fide* attempt to advance the application or the reexamination proceeding to final action. **A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.**

The Applicant's arguments mainly comprise of an assertion that the cited reference fails to teach entire limitations of the claimed invention, followed by a summarization of the portions of the reference cited by the Examiner; this is deemed to be a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. As cited above, the arguments submitted by Applicant with respect to claims 1-39 are not deemed to comply with the requirements of 37 CFR 1.111(b). The arguments presented by the Applicant are not deemed to "distinctly and specifically point out the supposed errors in the examiner's action", nor "present arguments pointing out the specific distinctions believed to render the claims...patentable over any applied references". The manner of arguments presented by the Applicant makes it unclear what the Applicant is asserting as patentably distinguishable from the cited references. However, this Office Action will attempt to respond to the arguments presented by the Applicant, as best understood by the Examiner.

The Applicant's argument that presenting arguments that cite specific features of the claims that were not deemed by the Applicant to be present in the cited portions of the cited reference satisfies the requirements of 37 CFR 1.111(b) is incorrect. The references must be considered as a whole, and not within a vacuum or limited to the portions cited by the Examiner. As per MPEP 2141.02,

Ascertaining the differences between the prior art and the claims at issue requires interpreting the claim language, and considering both the invention and the prior art references as a whole

35 USC 102(b) rejection of claims 1-3, 5, 7, 9-10, 16, 18-24, 26-28 and 33 over

Bayer

As to claim 1, Applicant argues that Bayer et al. fails to disclose "generating a database identifying a plurality of eligible voters, the database including an email address and an indication of a number of votes for each eligible voter".

The Examiner respectfully disagrees. Bayer et al. teaches a database identifying a plurality of eligible voters, the database including an email address and an indication of the number of votes for each eligible voter (database 15 stores voting information; Access table 43 records for each voter to the voting site of system 10. The VoteLog table 44 defines a log for each voter with the voting site of system 10; each record of VoteLog table 44 has the following data fields...VoteCookie, a Voting Digital ID generated by the network server 12 used for determining when a voter has worked

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previously for a survey in a voting campaign; registration campaign includes the E-mail address of the registrant 168; each record of the Users table 186 has the following data fields: E-mail, the E-mail address of a registrant associated with this record) {each voter is allowed 1 vote per campaign, as evidenced by the VoteCookie ID that checks for previous votes by a voter in a particular voting campaign} [Column 6, line 66-67, Column 7, line 21-26, Column 10, lines 26-37; Column 19, lines 25-28, Column 22, lines 47-51]. The Examiner further notes that claim 1 identifies a number of votes for each eligible voter, and that Bayer et al. teaches that if a voter has already voted in a campaign, they are ineligible to vote again, as they have used their one vote, and that voters who have not yet voted are still eligible to vote, implicitly teaching that all voters qualified for a voting campaign receive a single vote to be used in said campaign.

Further regarding claim 1, Applicant argues that Bayer et al. fails to anticipate “providing notification of a voting website to a plurality of eligible voters, wherein the notification is provided via an email message sent to each eligible voter of the plurality of eligible voters, wherein the notification provides the plurality of eligible voters with access to the voting website”.

The Examiner respectfully disagrees. Bayer et al. teaches the step of soliciting voters to a particular voting campaign by e-mail (i.e., providing notification of a voting website via an email message) with a hyperlink to the URL of a voting campaign via invitation 57b (i.e., providing access to the voting website) [Column 13, lines 56-58].

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Thus, the Examiner asserts that Bayer et al. does indeed teach the step of “providing notification of a voting website to a plurality of eligible voters, wherein the notification is provided via an email message sent to each eligible voter of the plurality of eligible voters, wherein the notification provides the plurality of eligible voters with access to the voting website”, thereby meeting the limitation of the claim.

Further regarding claim 1, Applicant argues that Bayer et al. fails to anticipate “for each eligible voter of the plurality of eligible voters that accesses the voting website, validating identity of the eligible voter to produce a validated voter”.

The Examiner respectfully disagrees. Bayer et al. teaches, on Column 28, lines 13-14, “The registrant is authenticated if the user name and password entered matches the retrieved nickname and password (step 242)”. The Examiner asserts that “registrant” is a label used to refer to eligible voters that access the voting website. Thus, the Examiner asserts that Bayer et al. does indeed teach the step of validating the identity of eligible voters to produce a validated voter by authenticating registered voters (i.e., registrants), thereby meeting the limitation of the claim.

As to claims 2 and 19, Applicant argues that Bayer et al. fails to disclose “wherein the email message provided to each eligible voter includes a hyperlink to the voting website”.

The Examiner respectfully disagrees. Bayer et al. teaches the step of soliciting voters to a particular voting campaign by e-mail (i.e., providing notification of a voting website via an email message) with a hyperlink to the URL of a voting campaign via invitation 57b (i.e., providing access to the voting website) [Column 13, lines 56-58]. Thus, the Examiner asserts that Bayer et al. does indeed teach the step of “an email message provided to each eligible voter [that] includes a hyperlink to the voting website, thereby meeting the limitation of the claim.

As to claims 3 and 20, Applicant argues that Bayer et al. fails to teach "retrieving an email address for the eligible voter from a voter database" and "generating the email message sent to the eligible voter using the email address retrieved".

The Examiner respectfully disagrees. Bayer et al. stores the email address of registered users [Column 19, lines 24-32] and “provides a means of obtaining registration information (i.e., email addresses) about voters which may be used to later solicit voters to a particular voting campaign, such as by E-mail with a hyperlink to the URL of a voting campaign” [Column 18, lines 55-60]. The email address of registered users are used by Bayer et al. in “generating” invitation 57b, which are e-mails sent to other voters, and include a hyperlink to the URL of a voting campaign. Thus, the Examiner asserts that Bayer et al. does indeed teach “retrieving an email address for the eligible voter from a voter database” and “generating the email message sent to the

eligible voter using the email address retrieved”, thereby meeting the limitation of the claim.

As per claims 5 and 24, Applicant argues that Bayer et al. fails to disclose “sending a consent email message to each potential voter of a plurality of potential voters, wherein the consent email message includes a hyperlink to a consent website”. Applicant argues that Bayer teaches away from “the voting website” and “the consent (registration campaign) website” disclosing a “consent website” in accordance with the subject matter of claims 5 and 24.

The Examiner respectfully disagrees. As per page 3, lines 14-20 of the Applicant’s specification, “The consent email message includes a hyperlink (URL) to a consent website, where potential voters can access the consent website to provide consent information.... The consent information can include consent to receive electronic information regarding the voting decision as well as consent to vote electronically”. Bayer et al. teaches the step of soliciting voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign via invitation 57b [Column 13, lines 56-58]. The Examiner asserts that voters who register for a voting campaign through the hyperlink provided in invitation 57b have given their consent to vote electronically, as evidenced by their registration, thereby meeting the limitation of the claim.

Bayer et al. also teaches the step of allowing voters, or other registrants, to register under one of multiple registration campaigns at registration site 24. Similar to a voting campaign, each registration campaign has an assigned URL. Registration information about voters may be used to later solicit voters to a particular voting campaign, such as by E-mail with a hyperlink to the URL of a voting campaign [Column 18, lines 49-63]. The Examiner asserts that voters and registrants who register for a voting campaign through the hyperlink provided in e-mail have given their consent to vote electronically, as evidenced by their registration at registration site 24; thus, registration site 24 is analogous to the claimed “consent website”. Therefore, the Examiner asserts that Bayer et al. does not teach away from a consent website, but does indeed teach a “consent website” in accordance with the invention as set forth in claims 5 and 24.

Therefore, the Examiner asserts that Bayer et al. does indeed teach the step of sending a consent email message including a hyperlink to a consent website (i.e., invitation 57b may be a hyperlink to a URL of a voting campaign embedded in a page offered by another site to a network client computer 18 or contained in E-mail) to each potential voter of a plurality of potential voters, and receiving consent information (i.e., registrant consent to vote electronically, as evidenced by their registration for a campaign), thereby meeting the limitation of the claim.

Further regarding claims 5 and 24, Applicant argues that Bayer et al. teaches away from "receiving consent information corresponding to at least a portion of the plurality of potential voters based on responses provided by the at least a portion of the plurality of potential voters via the consent website" as well as "determining the plurality of eligible voters from the at least a portion of the plurality of potential voters based on the consent information".

The Examiner respectfully disagrees. Bayer et al. teaches that "[r]egistration involves the network server sending to a user a registration questionnaire page for a registration campaign dynamically constructed in accordance with the registration information stored in the database 15, and receiving and storing the answers to the registration questions on the questionnaire" [Column 19, lines 2-7]. Registration information consists of a plurality of elements, including username and password of the registrant, e-mail address of the registrant, language and location preferences, [Figures 16A-16V, Column 19, line 31 – Column 24, line 9]; thus Bayer et al. does indeed teach "receiving consent information corresponding to at least a portion of the plurality of potential voters based on responses provided by the at least a portion of the plurality of potential voters via the consent website". Network server 12 validates the answers of the incoming registration data by checking that each question having an associated QuestionType table record with a set Required field is answered, and that numerical answers are in the minimum and maximum values of any associated records in the ValidationData table.... If the answers are valid at step 254, and if this is a first time

registration of the registrant for the registration campaign, each answered response is added to a new record of the RegistrationData table with the registrant's UserID, the QuestionID of the registration question, the SubQuestionID of the response, and the LangID of the preferred language of the registrant (step 256). [Column 30, lines 16-55]. Thus, registrants are not processed as registered users/voters until it is verified that all the answers to the registration questionnaire are valid; therefore, Bayer et al. does indeed teach the step of "determining the plurality of eligible voters from the at least a portion of the plurality of potential voters based on the consent information", thereby meeting the limitation of the claim.

As per claims 7 and 26, Applicant argues that Bayer et al. fails to disclose "comparing the password with a stored password corresponding to the user identity to produce a comparison result, wherein when the comparison result is favorable, the eligible voter is validated to produce a validated voter". Applicant argues that the teachings of Bayer at Column 28, lines 13-14 and Column 14, lines 42-46 are self-contradictory.

The Examiner disagrees. It is unclear how, as the Applicant argues, Bayer et al. is self-contradictory at columns 14 and 28. Bayer et al. teaches, on Column 28, lines 13-14, "The registrant is authenticated if the user name and password entered matches the retrieved nickname and password (step 242)". The Examiner asserts that "registrant" is a label used to refer to eligible voters that access the voting website. Thus, the

Examiner asserts that Bayer et al. does indeed teach the step of validating the identity of eligible voters to produce a validated voter by authenticating registered voters (i.e., registrants), thereby meeting the limitation of the claim.

As per claims 9 and 27, Applicant argues that Bayer et al. fails to disclose “detecting an electronic certificate stored on a host device associated with the eligible voter” and “comparing the electronic certificate with a validation certificate stored in a validation database to produce a comparison result, wherein when the comparison result is favorable, the eligible voter is validated to produce a validated voter”.

The Examiner respectfully disagrees. As cited in the rejection of the claim, Bayer et al. teaches the step of searching for VoteCookie (i.e., an electronic certificate), a Voting Digital ID stored on the user’s computer (i.e., a host device associated with the eligible voter), in order to determine whether a voter has voted previously for a survey in a voting campaign. Further, the VoteCookie is compared to VoteLog table to determine whether a voting record of the user is found in VoteLog table (i.e., comparing the electronic certificate with a validation certificate to produce a comparison result). If no record is found (i.e., a favorable comparison), it is an indication that the user has not yet voted and is eligible to vote. Thus, the Examiner asserts that Bayer et al. does indeed teach the limitations of claims 9 and 27.

As per claims 16 and 33, Applicant argues that Bayer et al. teaches away from “the URL of a voting campaign” and “a registration campaign” disclosing a “consent website” in accordance with the claimed invention as set forth in claims 16 and 33.

The Examiner respectfully disagrees. As per page 3, lines 14-20 of the Applicant’s specification, “The consent email message includes a hyperlink (URL) to a consent website, where potential voters can access the consent website to provide consent information.... The consent information can include consent to receive electronic information regarding the voting decision as well as consent to vote electronically”. Bayer et al. teaches the step of soliciting voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign via invitation 57b [Column 13, lines 56-58]. Bayer et al. also teaches the step of allowing voters, or other registrants, to register under one of multiple registration campaigns at registration site 24. Similar to a voting campaign, each registration campaign has an assigned URL. Registration information about voters may be used to later solicit voters to a particular voting campaign, such as by E-mail with a hyperlink to the URL of a voting campaign [Column 18, lines 49-63]. The Examiner asserts that voters and registrants who register for a voting campaign through the hyperlink provided in e-mail have given their consent to vote electronically, as evidenced by their registration at registration site 24; thus, registration site 24 is analogous to the claimed “consent website”. Therefore, the Examiner asserts that Bayer et al. does not teach away from a consent website, but

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does indeed teach a “consent website” in accordance with the invention as set forth in claims 16 and 33, thereby meeting the limitation of the claim.

As to claim 18, Applicant argues that Bayer et al. fails to disclose “providing notification of a voting website to a plurality of eligible voters, wherein the notification is provided via an email message sent to each eligible voter of the plurality of eligible voters, wherein the notification provides the plurality of eligible voters with access to the voting website”.

The Examiner respectfully disagrees. Bayer et al. teaches the step of soliciting voters to a particular voting campaign by e-mail (i.e., providing notification of a voting website to a plurality of eligible voters via email) with a hyperlink to the URL of a voting campaign via invitation 57b (i.e., the email providing access to the voting website to the plurality of eligible voters) [Column 13, lines 56-58]. Bayer et al. also teaches the step of allowing voters, or other registrants, to register under one of multiple registration campaigns at registration site 24. Similar to a voting campaign, each registration campaign has an assigned URL. Registration information about voters may be used to later solicit voters to a particular voting campaign, such as by E-mail with a hyperlink to the URL of a voting campaign [Column 18, lines 49-63].

Further regarding claim 18, Applicant argues that Bayer et al. fails to disclose “for each eligible voter of the plurality of eligible voters that accesses the voting website,

validating identity of the eligible voter to produce a validated voter”. Applicant argues that Bayer not only fails to disclose, but also teaches away from the claimed invention as set forth in claim 18.

The Examiner respectfully disagrees. Bayer et al. teaches, on Column 28, lines 13-14, “The registrant is authenticated if the user name and password entered matches the retrieved nickname and password (step 242)”. The Examiner asserts that “registrant” is a label used to refer to eligible voters that access the voting website. Thus, the Examiner asserts that Bayer et al. does indeed teach the step of validating the identity of eligible voters to produce a validated voter by authenticating registered voters (i.e., registrants), thereby meeting the limitation of the claim.

As per claim 21, Applicant argues that Bayer et al. fails to disclose “wherein the voter database is stored in the memory”. Applicant argues that claim 21 does not state “wherein the voting information is stored in the memory”, but rather “wherein the voter database is stored in the memory”.

The Examiner respectfully disagrees. Figure 1 of Bayer et al. shows that database 15 is embedded within memory 14. Furthermore, Bayer et al. discloses that memory 14 stores database 15 [Column 5, line 12] and that multiple records in tables of database 15 store voting information [Column 6, lines 66-67], which includes the email address of registrants (EMAIL ADDRESS 168; The registration campaign 162 includes

the E-mail address of the registrant 168) [Figure 15, Column 19, lines 25-28]. The Examiner submits that database 15 stores voting information, as well as voter registration information. Therefore, the Examiner asserts that Bayer et al. does indeed teach a voter database stored in the memory, thereby meeting the limitation of the claim.

As per claim 22, Applicant argues that Bayer et al. fails to disclose “wherein the voter database is accessed by the voting management processor over a network” because no cited portions of the cited reference disclose the functionality of a voting management process to access an internally-located voter database.

The Examiner respectfully disagrees. Bayer et al. teaches that database 15 (voter database) is stored on memory 14, and transaction server 16 is connected to the memory 14 which enables the network server 12 to access and update records in tables of the database 15. The network server 12 enables network connections to computers 18 through a network 20, such as the Internet or World Wide Web... Although a single network client computer 18 is shown in Figure 1, multiple ones of network client computer 18 can connect to the network server 12. Further, network server 12 may represent one or more redundant servers operating on multiple computer systems 12 coupled to the transaction server 16 to provide the desired maximum number connections to different ones of computers 18 [Column 5, lines 10-41]. The network server 12 enables network connections to computers 18 through a network 20 [Column

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5, lines 15-16]. The network server 12 can send data representing transactions to the transaction server 16 to either access (read, retrieve, search, or query) records in a particular table, or update (add, modify or delete) a record in a particular table of the database [Column 5, line 65 – Column 6, line 2]. An administrator computer 17, like computers 18, can connect to the network server 12, via network 20. Alternatively, the administrator computer 17 can connect directly to the network server 12 by a LAN 19 to which both the network server 12 and administrator computer 17 are connected [Column 6, lines 15-22, Figure 1]. In short, Bayer et al. provides network connections to computers 18 through a network 20, to access database 15; in other words, voter database 15 is accessed by computer 18 over network 20. The Examiner asserts that network server 12 can access database 15 via transaction server 16, and administrator computer 17 can access network server 12 and transaction server 16 via LAN 19; thus, the Examiner asserts that Bayer et al. does indeed teach the step of “the voter database is accessed by the voting management processor over a network”, thereby meeting the limitation of the claim.

As per claim 23, Applicant argues that Bayer et al. does not teach “software representing programmed instructions” being stored in “memory 14”, and thus can not be shown to anticipate “wherein the memory stores additional instructions such that the functions performed by the processing module include providing a plurality of hyperlinks on the voting website, wherein a first hyperlink of the plurality of hyperlinks directs an

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eligible voter to a voting page and a second hyperlink of the plurality of hyperlinks directs the user to documentation related to the voting issue”.

The Examiner respectfully disagrees. Bayer et al. teaches that **network server 12 operates in accordance with software representing programmed instructions** [Column 5, lines 42-44] and that transaction server 16 represents a computer system connected to memory 14 and **programmed in accordance with database software** [Column 5, lines 59-61]. The system of Bayer et al. embodies a system that includes a **programmed computer system** representing at least one network server which provides an addressable voting site and registration site on the network, and a database storing voting information for dynamically building surveys. A computer of each of the voters is **programmed with network browser software** such that a connection to the network server over the network can be established at one of the multiple Universal Resource Locators addressing the voting site [Column 2, lines 38-54]. Bayer et al. also teaches that memory 14 is a memory storage unit, such as a disk array. Other types of memory storage units may also be used, such as the hard disk drive of the computer system providing transaction server 16 [Column 6, lines 11-14]. The Examiner asserts that programmable instructions are encoded onto memory and are executed by a computer processor to enable a computer to perform a plurality of steps, such as building a database and accessing, updating, and maintaining records of said database [Column 5, line 59 – Column 6, line 10]. Thus, the Examiner asserts that Bayer et al.

does indeed teach programmed instructions stored in memory, thereby meeting the limitation of the claim.

As per claim 28, Applicant argues that Bayer et al. does not disclose the claimed invention as set forth in claim 28. Applicant argues that Bayer et al. fails to teach “wherein compiling the voting information further comprises storing the voting information in the memory”. Applicant submits that memory 14, as disclosed by Bayer et al. does not comprise the VoteLog table cited by the Examiner.

The Examiner respectfully disagrees. Bayer et al. teaches that multiple records in tables of database 15 store voting information. The voting information includes records stored in eighteen tables 30-47, as shown in Figures 3A-3R. The VoteLog table 44 defines a log for each voter with the voting site [Column 6, line 66 – Column 7, line 24, Figure 3O]. If memory 14 stores database 15, and database 15 stores voting information, then memory 14 stores voting information. Columns 7-10 explain the contents of the voting information stored. Specifically, “The VoteLog table 44 defines a log for each voter with the voting site of system 10” (Column 7, lines 23-24), and “The Tally table 46 records a tally of the vote totals for each of the answers to the questions for each survey” (Column 7, lines 26-28). Therefore, the Examiner asserts that Bayer et al. teaches a system where a database compiles a list of all voters who have voted in a specific voting campaign, along with their voting selection, thus teaching the step of storing voting information in memory, thereby meeting the limitation of the claim.

35 USC 103(a) rejection of claims 4, 6, 8, 11-15, 17, 25, 29-32, and 34 over Bayer

As per claim 4, Applicant argues that the Examiner's Official Notice that using hyperlinks to provide additional related documentation is old and well known in the art does not allege knowledge as of the time of the invention, and is not supported by a prior art reference or an affidavit or declaration provided by the Examiner.

The Examiner respectfully disagrees. The Examiner notes that evidentiary support for the Official Notice was indeed provided in the Office Action mailed May 7, 2008. Specifically, the Publius Online Election Information System reference, which was archived and publicly accessible on the Internet as of November 19, 1999, supports the taking of Official Notice and establishes that it was indeed old and well known prior to the time of invention. The Official Notice has been maintained and admitted as prior art.

As per claims 6, 17, 25, and 34, Applicant argues that Bayer et al. fails to teach "wherein consent information includes consent to vote electronically and consent to receive documentation electronically, wherein at least one hyperlink is provided on the voting website, wherein a first hyperlink directs an eligible voter to a voting page when the eligible voter has consented to vote electronically, and a second hyperlink directs the eligible voter to documentation related to the voting issue when the eligible voter has consented to receive documentation electronically". Applicant further argues that

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the configuration of Bayer et al. "would appear to prevent response to the "survey questions".

The Examiner respectfully disagrees. As cited above, Bayer et al. teaches collecting registration information from registrants, which is performed at a user registration questionnaire page via a registration site. The registration information is used to register a user to vote in a voting campaign. The voting (answering the survey) itself is performed at a "survey form page" via a voting site; thus, the voter receives documentation electronically in the form of the survey questions. The Examiner asserts that registration by the user to participate in said surveys is indicative of the user's consent to receive electronic documentation (i.e., the survey questions online). It is unclear how the configuration of Bayer et al. "would appear to prevent response to the survey questions". Bayer et al. teaches that after success registration, the e-mail address of the registrant is further used to send an email with confirmation of the registration, as well as a "ThankYouURL...which will link the registrant's computer to another site, such as provided by the voting site. For example, this site may permit the registrant to be a voter for a survey" [Column 30, lines 32-53]. The voting site 22 and registration site 24 are two distinctly separate sites accessible via network server 12 [see at least Figure 1]; thus, it is unclear how the configuration of Bayer et al. prevents response to the survey questions.

As per claim 8, Applicant argues that the Examiner's Official Notice that using secure data communication protocols is old and well known in the art does not allege knowledge as of the time of the invention, and is not supported by a prior art reference or an affidavit or declaration provided by the Examiner.

The Examiner respectfully disagrees. The Examiner notes that evidentiary support for the Official Notice was indeed provided in the Office Action mailed May 7, 2008. Specifically, Freeling et al. (US Patent #6,959,281), Curry et al. (US Patent #5,748,740), Fuller (USPGPub 2001/0029463) and SSL 2.0 Protocol Specification (which was publicly accessible on the Internet as of February 9, 1995), each support the taking of Official Notice and establish that it was indeed old and well known prior to the time of invention. The Official Notice has been maintained and admitted as prior art.

As per claims 11 and 19, Applicant argues that the Examiner's Official Notice that the use of transfer agents to oversee the polling and counting of votes in an election is old and well known in the art does not allege knowledge as of the time of the invention, and is not supported by a prior art reference or an affidavit or declaration provided by the Examiner.

The Examiner respectfully disagrees. The Examiner notes that evidentiary support for the Official Notice was indeed provided in the Office Action mailed May 7, 2008. Specifically, Anno et al. (US Patent #5,189,288) and Chaum (USPGPub

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2001/0034640) each support the taking of Official Notice and establish that it was indeed old and well known prior to the time of invention. The Official Notice has been maintained and admitted as prior art.

As per claims 12 and 30, Applicant argues that the Examiner's Official Notice that email encryption is old and well known in the art does not allege knowledge as of the time of the invention, and is not supported by a prior art reference or an affidavit or declaration provided by the Examiner.

The Examiner respectfully disagrees. The Examiner notes that evidentiary support for the Official Notice was indeed provided in the Office Action mailed May 7, 2008. Specifically, Curry et al. (US Patent #5,748,740) and Auerbach et al. (US Patent #5,673,316) each support the taking of Official Notice and establish that it was indeed old and well known prior to the time of invention. The Official Notice has been maintained and admitted as prior art.

As per claims 13 and 31, Applicant argues that Bayer et al. fails to teach "wherein compiling the voting information further comprises generating and sending a transfer agent email message for each set of voting information received during a predetermined voting time period".

The Examiner submits that Bayer et al. was asserted to have taught the steps of storing voting information, generating e-mail messages, and tallying votes to determine winners, but did not explicitly teach the steps of "sending email messages including voting information corresponding to at least one eligible voter to a transfer agent". The Examiner submits that Official Notice was taken that "the use of transfer agents to oversee the polling and counting of votes in an election are old and well known in the art" (for which support has been provided below), obviating the step of compiling information by sending said stored voting information to said transfer agents for polling and counting of votes.

Further regarding claims 13 and 31, Applicant argues that the Examiner's Official Notice that the use of transfer agents to oversee the polling and counting of votes in an election is old and well known in the art does not allege knowledge as of the time of the invention, and is not supported by a prior art reference or an affidavit or declaration provided by the Examiner.

The Examiner respectfully disagrees. The Examiner notes that evidentiary support for the Official Notice was indeed provided in the Office Action mailed May 7, 2008. Specifically, Anno et al. (US Patent #5,189,288) and Chaum (USPGPub 2001/0034640) each support the taking of Official Notice and establish that it was indeed old and well known prior to the time of invention. The Official Notice has been maintained and admitted as prior art.

Further regarding claims 13 and 31, Applicant argues that the Examiner's Official Notice that absentee ballots are and old and well known mechanism in the voting arts used by registered voters who are unable to vote at an official polling station is old and well known in the art does not allege knowledge as of the time of the invention, and is not supported by a prior art reference or an affidavit or declaration provided by the Examiner.

The Examiner respectfully disagrees. The Examiner notes that evidentiary support for the Official Notice was indeed provided in the Office Action mailed May 7, 2008. Specifically, Boram (US Patent #4,641,240), Chaum (USPGPub 2001/0034640), and Absentee Voting (an archived article from November 22, 1997), each support the taking of Official Notice and establish that it was indeed old and well known prior to the time of invention. The Official Notice has been maintained and admitted as prior art.

As per claims 14 and 32, Applicant argues that the Examiner's Official Notice that the use of transfer agents to oversee the polling and counting of votes in an election is old and well known in the art does not allege knowledge as of the time of the invention, and is not supported by a prior art reference or an affidavit or declaration provided by the Examiner.

The Examiner respectfully disagrees. The Examiner notes that evidentiary support for the Official Notice was indeed provided in the Office Action mailed May 7, 2008. Specifically, Anno et al. (US Patent #5,189,288) and Chaum (USPGPub 2001/0034640) each support the taking of Official Notice and establish that it was indeed old and well known prior to the time of invention. The Official Notice has been maintained and admitted as prior art.

As per claim 15, Applicant argues that the Examiner's Official Notice that it is old and well known in the computing arts that email and website access may be provided using internal and/or external networks does not allege knowledge as of the time of the invention, and is not supported by a prior art reference or an affidavit or declaration provided by the Examiner.

The Examiner respectfully disagrees. The Examiner notes that evidentiary support for the Official Notice was indeed provided in the Office Action mailed May 7, 2008. Specifically, MediaMall (an archived article from November 3, 1999), Takahashi et al. (US Patent #6,049,787), Shaw et al. (USPGPub 2001/0005855) and Nummelin et al. (US Patent #6,308,164) each support the taking of Official Notice and establish that it was indeed old and well known prior to the time of invention. The Official Notice has been maintained and admitted as prior art.

35 USC 103(a) rejection of claims 35-39 over Bayer in view of Kilian

As per claim 35, Applicant argues that Bayer et al. fails to disclose “sending voting notification email messages to the plurality of eligible voters, wherein the voting notification email messages provide access to a voting website managed by the voting server”.

The Examiner respectfully disagrees. Bayer et al. teaches the step of soliciting voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign via invitation 57b [Column 13, lines 56-58]. Bayer et al. also teaches the step of allowing voters, or other registrants, to register under one of multiple registration campaigns at registration site 24. Similar to a voting campaign, each registration campaign has an assigned URL. Registration information about voters may be used to later solicit voters to a particular voting campaign, such as by E-mail with a hyperlink to the URL of a voting campaign [Column 18, lines 49-63]. The Examiner asserts that the hyperlink included in the e-mail sent to voters provides access to the voting campaign website (i.e., the URL of a voting campaign) managed by a voting server (network server 12, which hosts voting site 22 and is connected to network client computer of the voter/registrant 18 via network 20) [Figure 1, 10]. Therefore, the Examiner asserts that Bayer et al. does indeed teach the step of sending voting notification email messages providing access to a voting website managed by the voting server to the plurality of eligible voters, thereby meeting the limitation of the claim.

Further regarding claim 35, Applicant argues that Kilian fails to disclose “securely transferring the voting result in electronic form to an agent system”.

The Examiner respectfully disagrees. Kilian et al. teaches the use of a "secure untappable channel" to send messages without being accessed or detected by other parties. Kilian et al. teaches that each voter submits one of the received votes to the counting center through a secure anonymous channel where votes are tallied. The Examiner asserts that use of the secure anonymous channel (i.e., securely transferring the voting result) to transferring of the votes (i.e., voting result) to a counting center for processing and tallying (i.e., to an agent system) is done electronically, as Kilian et al. is directed towards electronic voting (abstract, column 1, lines 5-8). Thus, the Examiner maintains that Kilian does indeed disclose “securely transferring the voting result in electronic form to an agent system”, meeting the limitation of the claim.

As per claim 36, Applicant argues that Bayer et al. fails to disclose a network server “sending consent email messages to the plurality of potential voters”.

The Examiner respectfully disagrees. As per page 3, lines 14-20 of the Applicant’s specification, “The consent email message includes a hyperlink (URL) to a consent website, where potential voters can access the consent website to provide consent information.... The consent information can include consent to receive electronic information regarding the voting decision as well as consent to vote

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electronically”. Bayer et al. teaches the step of soliciting voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign via invitation 57b [Column 13, lines 56-58]. Bayer et al. also teaches the step of allowing voters, or other registrants, to register under one of multiple registration campaigns at registration site 24. Similar to a voting campaign, each registration campaign has an assigned URL. Registration information about voters may be used to later solicit voters to a particular voting campaign, such as by E-mail with a hyperlink to the URL of a voting campaign [Column 18, lines 49-63]. The Examiner asserts that the e-mail invitation to voting campaigns is analogous to the claimed “consent email messages”. As seen in Figure 10, invitation 57 is sent via network 20 to voter network client 18. Figure 1 shows that voter network client 18 is also connected to network server 12 via network 20. Therefore, the Examiner asserts that Bayer et al. does indeed teach the step of a network server sending consent email messages to the plurality of eligible voters, meeting the limitation of the claim.

As per claim 37, Applicant argues that the Examiner’s Official Notice that the use of transfer agents to oversee the polling and counting of votes in an election is old and well known in the art does not allege knowledge as of the time of the invention, and is not supported by a prior art reference or an affidavit or declaration provided by the Examiner.

The Examiner respectfully disagrees. The Examiner notes that evidentiary support for the Official Notice was indeed provided in the Office Action mailed May 7, 2008. Specifically, Anno et al. (US Patent #5,189,288) and Chaum (USPGPub 2001/0034640) each support the taking of Official Notice and establish that it was indeed old and well known prior to the time of invention. The Official Notice has been maintained and admitted as prior art.

Further regarding claim 37, Applicant argues that the Examiner's Official Notice that it is old and well known in the computing arts that email and website access may be provided using internal and/or external networks does not allege knowledge as of the time of the invention, and is not supported by a prior art reference or an affidavit or declaration provided by the Examiner.

The Examiner respectfully disagrees. The Examiner notes that evidentiary support for the Official Notice was indeed provided in the Office Action mailed May 7, 2008. Specifically, MediaMall (an archived article from November 3, 1999), Takahashi et al. (US Patent #6,049,787), Shaw et al. (USPGPub 2001/0005855) and Nummelin et al. (US Patent #6,308,164) each support the taking of Official Notice and establish that it was indeed old and well known prior to the time of invention. The Official Notice has been maintained and admitted as prior art.

As per claim 38, Applicant argues that the Examiner's Official Notice that it is old and well known in the computing arts that email and website access may be provided using internal and/or external networks does not allege knowledge as of the time of the invention, and is not supported by a prior art reference or an affidavit or declaration provided by the Examiner.

The Examiner respectfully disagrees. The Examiner notes that evidentiary support for the Official Notice was indeed provided in the Office Action mailed May 7, 2008. Specifically, MediaMall (an archived article from November 3, 1999), Takahashi et al. (US Patent #6,049,787), Shaw et al. (USPGPub 2001/0005855) and Nummelin et al. (US Patent #6,308,164) each support the taking of Official Notice and establish that it was indeed old and well known prior to the time of invention. The Official Notice has been maintained and admitted as prior art.

Further regarding claim 38, Applicant argues that the Examiner's Official Notice that it email encryption is old and well known in the art does not allege knowledge as of the time of the invention, and is not supported by a prior art reference or an affidavit or declaration provided by the Examiner.

The Examiner respectfully disagrees. The Examiner notes that evidentiary support for the Official Notice was indeed provided in the Office Action mailed May 7, 2008. Specifically, Curry et al. (US Patent #5,748,740) and Auerbach et al. (US Patent

#5,673,316) each support the taking of Official Notice and establish that it was indeed old and well known prior to the time of invention. The Official Notice has been maintained and admitted as prior art.

As per claim 39, Applicant argues that the Examiner's Official Notice that it is old and well known in the computing arts that email and website access may be provided using internal and/or external networks does not allege knowledge as of the time of the invention, and is not supported by a prior art reference or an affidavit or declaration provided by the Examiner.

The Examiner respectfully disagrees. The Examiner notes that evidentiary support for the Official Notice was indeed provided in the Office Action mailed May 7, 2008. Specifically, MediaMall (an archived article from November 3, 1999), Takahashi et al. (US Patent #6,049,787), Shaw et al. (USPGPub 2001/0005855) and Nummelin et al. (US Patent #6,308,164) each support the taking of Official Notice and establish that it was indeed old and well known prior to the time of invention. The Official Notice has been maintained and admitted as prior art.

Official Notice

In the previous Office Action mailed December 6, 2005, notice was taken by the Examiner that certain subject matter is old and well known in the art. Per MPEP 2144.03(c), these statements are taken as admitted prior art because no adequate

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traversal of this statement that created a reasonable doubt regarding the circumstances justifying the Official Notice was made in the subsequent response. The Examiner notes that these statements of Official Notice (which have been admitted as prior art) listed above are not currently being applied to any of the pending claims and are instead listed to provide a record. Specifically, these instances of Official Notice have been admitted as prior art:

- It is old and well known in the surveying/electoral arts that there are a myriad of issues in any election.
- It is common knowledge that users who have registered for elections are subject to receiving relevant documentation, commonly in electronic formats
- It is old and well known in the art that either a HTTPS protocol or a SSL protocol can be used to handle secure communication between a web server and a web browser. It is common knowledge that the HTTPS protocol typically handles credit card transactions and other sensitive data. It is also common knowledge that the SSL protocol is designed to provide privacy between a web server and a web browser by authenticating the server (and sometimes the client) uses an algorithm to encrypt data. It is old and well known in the art that such security measures are compatible with web browsers and are used by websites that typically transmit sensitive data.
- It is old and well known in the art that the role of transfer agents in the election process is to store tallied results, or to tally the received votes and determine a winner.

- It is old and well known in the voting arts that in traditional voting systems, votes are tallied at voting centers and the ballots are then sent to a central facility in case of a recount, and that, similarly, electronic voting systems also tally votes, and subsequently forward ballots to a proxy party (such as a transfer agent) for independent recounting and management of ballots to ensure that ballots are not tampered with and to confirm the voting results
- It is old and well known in the art that email messages containing confidential and sensitive data, such as financial information (credit card and bank account numbers), and personal identification (social security numbers) are encrypted and transmitted through a secure connection to a network server.
- It is common knowledge that, if the transfer agent is assigned the responsibility of tallying the votes to determine the winner, then whenever voting information is received during the predetermined voting time period, it should be sent to the transfer agent for tallying. Invalid votes are not taken into consideration when determining the winner.
- It is old and well known in the voting arts that invalid votes need not to be sent to a transfer agent.
- It is common knowledge that elections occur during a predetermined voting period, as they are not indefinite events. It is old and well known in the art that any system used to conduct elections would have some means accepting votes only during the predetermined voting period, disregarding any votes received after this period and ceasing to accept additional completed voting forms. It is old

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and well known in the voting arts that voters who failed to register or vote during the predetermined voting time will not have their votes tallied in determining the winner. It is common knowledge that eligible nonvoters have no “default” selections, as they did not participate in the election.

- Means of transferring electronic data are old and well known in the art (including electronic data interchange, file transfer protocol, compact disc, floppy disk etc). It is old and well known in the art that the role of transfer agents is to tally all the votes cast for the voting issue, or simply to store results after all votes have been tallied. It is common knowledge that records of elections must be maintained to verify election results, especially in case of recounts. It is also common knowledge that, without a backup copy of the elections, there is the risk of losing existing data (file corruption, hard drive crashing, hacked by external entities, etc.).
- It is old and well known in the computing arts that the essential idea of an Intranet is that it uses Local Area Network (LAN) technologies to facilitate communication between people and improve the knowledge base of an organization's employees. Intranets can include mail servers based on low cost Internet technology. Two pieces of software must run on the mail server. First, Simple Mail Transfer Protocol (SMTP) server software is required to communicate with other mail servers to transfer mail between mail servers. A Post Office Protocol (POP) server is required to communicate with the end users computers for reading and sending mail. On an Intranet, network administrators

can prescribe access and policy for a fixed group of users. Intranets make use of Internet technologies within an organization to achieve better results than the conventional means of data access and transfer, while cutting costs and providing easy and fast access to information. The network firewalls that surround an Intranet prevent unauthorized access. Transfer agents are usually independent parties not in the organization, and would therefore be prohibited from accessing the intranet to view websites or receive email.

- An internal network (such as an Intranet) would be used to deliver email messages and website access to locally networked users, and that an external network (such as the Internet) would be used to deliver email messages to non-local, non-networked users.
- It is old and well known in the art that the role of transfer agents in the election process is to store tallied results, or to tally the votes and determine a winner
- Voting information corresponding to eligible voters is used in producing a voting result. Regardless of who tallies the results, it is an old and well known practice that the process would involve the step of compiling the voting information (adding received answers to information stored in a database) from the validated voters to produce the voting result.
- It is old and well known in the art that email messages containing confidential and sensitive data, such as financial information (credit card and bank account numbers), and personal identification (social security numbers) are encrypted and transmitted through a secure connection to a network server.

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- It is old and well known in the art that Intranets are secure internal networks that can include mail servers based on low cost Internet technology. It is common knowledge that transfer agents are usually independent parties not in the organization, and would therefore be prohibited from accessing the intranet to view websites or receive email, so the use of external networks would inherently be required to deliver email messages.
- It is old and well known in the art that data servers are integral parts of transferring electronic information and data. It is also old and well known in the art that the role of transfer agents in the election process is to store tallied results, or to tally the votes and determine a winner.
- Voting information corresponding to eligible voters is used in producing a voting result. Regardless of who tallies the results, it is an old and well known practice that the process would involve the step of compiling the voting information (adding received answers to information stored in a database) from the validated voters to produce the voting result.

In the Office Action mailed August 8, 2007, notice was taken by the Examiner that certain subject matter is old and well known in the art. Specifically, it was taken that:

- Using hyperlinks to provide additional related documentation is old and well known in the art

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- The use of secure data communication protocols is old and well known in the computing arts
- The use of transfer agents to oversee the polling and counting of votes in an election are old and well known in the art
- Email encryption is old and well known in the art
- Absentee ballots are an old and well known mechanism in the voting arts used by registered voters who are unable to vote at an official polling station
- It is old and well known in the computing arts that email and website access may be provided using internal and/or external networks

Evidentiary support for these takings of Official Notice were provided in the Office Action mailed May 7, 2008. Thus, these statements have been admitted as prior art.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-17 are rejected under 35 U.S.C. 101 based on Supreme Court precedent, and recent Federal Circuit decisions. The Office's guidance to examiners is

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that a § 101 process must (1) be tied to a particular machine or apparatus or (2) transform underlying subject matter (such as an article or materials) to a different state or thing (also referred to as the “machine-or-transformation test”). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876); *In re Bilski*, 88 USPQ2d 1385 (Fed. Cir. 2008). Also see USPTO Memoranda, “Guidance for Examining Process Claims in view of *In re Bilski*,” January 7, 2009 and “New Interim Patent Subject Matter Eligibility Examination Instructions,” August 24, 2009. Both memoranda may be located on the USPTO website at:

<http://www.uspto.gov/web/patents/memoranda.htm>.

Additionally, there are two corollaries to the machine-or-transformation test. First, a mere field-of-use limitation is generally insufficient to render an otherwise ineligible method claim patentable. This means the machine or transformation must impose meaningful limits on the method claim’s scope to pass the test. Second, insignificant extra-solution activity will not transform an unpatentable principle into a patentable process. This means reciting a specific machine or particular transformation of a specific article in an insignificant step, such as data gathering or outputting, is not sufficient to pass the test. If neither of these requirements are met by the claim, the method is not a patent eligible process under 35 U.S.C. 101 and is non-statutory subject matter.

Nominal recitations of structure in an otherwise ineligible method fail to make the method a statutory process. The use of a specific machine or transformation of an article must impose meaningful limits on the claim's scope to impart patent-eligibility. See *Benson*, 409 U.S. at 71-72. Further, the involvement of the machine or transformation in the claimed process must not merely be insignificant extra-solution activity. See *Flook*, 437 U.S. at 590. Incidental physical limitations, such as data gathering, field of use limitations, and extra-solution activity is not enough to convert an abstract idea into a statutory process (*In re Bilski*, 88 USPQ2d 1385, 1385 (Fed. Cir. 2008)). In other words, nominal or token recitations of structure in a method claim do not convert an otherwise ineligible claim into an eligible one. It is further noted that the mere recitation of a machine in the preamble in a manner such that the machine fails to patentably limit the scope of the claim does not make the claim statutory under 35 USC 101, as seen in the Board of Patent Appeals Informative Opinion *Ex Parte Langemyr et al.* (Appeal 2008-1495).

Although claim 1 recites a database and sending email messages to eligible voters, these recitations are deemed to be directed towards insignificant extra-solution activity, as explained above. The steps of providing notification, validating voter identity, and compiling voting information are not cited as being tied to a particular machine or apparatus. Similarly, although claim 1 also recites that voting information is received at a voting server, this is also deemed to be directed towards data gathering, which is an

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insignificant step as explained above that does not impose a meaningful limit on the scope of the claim as required.

Dependent claims 2-17 merely add further details of the voting result determining process as recited in claim 1 without including any meaningful tie to a particular machine or apparatus nor any transformation of subject matter into a different state or thing.

Here, applicant's method steps, fail the first prong since they are not tied to a particular machine in a meaningful manner and can be performed without the use of a particular machine or apparatus. Similarly, the applicant's method steps fail the second prong because they do not result in a transformation of subject matter into another state or thing. Thus, claims 1-17 are non-statutory.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 – 3, 5, 7, 9 - 10, 16, 18 - 24, 26 - 28, and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by **Bayer et al.** (U.S Patent #6,311,190).

As per claim 1, Bayer et al. teaches a method for determining a voting result for a voting issue, comprising:

generating a database identifying a plurality of eligible voters, the database including an email address and an indication of a number of votes for each eligible voter **(database 15 stores voting information; Access table 43 records for each voter to the voting site of system 10. The VoteLog table 44 defines a log for each voter with the voting site of system 10; each record of VoteLog table 44 has the following data fields...VoteCookie, a Voting Digital ID generated by the network server 12 used for determining when a voter has worked previously for a survey in a voting campaign; registration campaign includes the E-mail address of the registrant 168; each record of the Users table 186 has the following data fields: E-mail, the E-mail address of a registrant associated with this record) {each voter is allowed 1 vote per campaign}** [Column 6, line 66-67, Column 7, line 21-26, Column 10, lines 26-37; Column 19, lines 25-28, Column 22, lines 47-51];

providing notification of a voting website to the plurality of eligible voters, wherein the notification is provided via an email message sent to each eligible voter of the plurality of eligible voters, wherein the notification provides the plurality of eligible voters with access to the voting website **(an invitation 57b may be a hyperlink to the URL of a voting campaign embedded in a page offered by another site to a network client computer 18 or contained in E-mail)** [Column 13, lines 56-58 and Column 18, lines 55-60];

for each eligible voter of the plurality of eligible voters that accesses the voting website, validating identity of the eligible voter to produce a validated voter (**The registrant is authenticated if the user name and password entered matches the retrieved nickname and password (step 242); cookies are used by network server 12 to determine if the voter has already voted in the campaign; if a record found in the VoteLog table and a VoteCookie matches the Voting Digital ID associated with present survey and voting campaign, the voter cannot vote again in step 70**) [Column 14, lines 28-32, 42-46, 58-63, Column 28, lines 13-14; Figure 4];

receiving, at a voting server (**network server comprises means for receiving answers to a survey from a voter**), voting information (**answers to survey questions**) from validated voters [Claim 1, Column 2, line 60 - Column 3, line 10]; and
compiling the voting information (**adding received answers to information stored in a database**) from the validated voters to produce the voting result [Claim 5].

As per claims 2 and 19, Bayer et al. teaches the method of claim 1, wherein the email message provided to each eligible voter includes a hyperlink (**an invitation 57b may be a hyperlink to the URL of a voting campaign embedded in a page offered by another site to a network client computer 18 or contained in E-mail**) to the voting website [Column 13, lines 56-58].

As per claims 3 and 20, Bayer et al. teaches a method where registration information about users, such as their email address (**element 168 of Figure 15, E-mail address of the registrant 168**), can be obtained from a database (**database 15**

stores registration information) [Column 19, lines 24-32] and may be used to generate an email message to eligible voters **(solicit voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign; After step 256... an E-mail message is prepared and sent to the registrant's E-mail address with a confirmation of the registration, and the user may be sent a page from the template at the ThankYouURL address of the registration campaign in the registrant's language with a thank you for registering message (step 260))** using the email address retrieved [Column 18, lines 58-60, Column 30, lines 37-45, Figure 15].

As per claims 5 and 24, Bayer et al. teaches the method of claim 1 wherein providing the plurality of eligible voters with access to the voting website further comprises:

sending an email message to potential voters **(solicit voters to a particular voting campaign {through invitation 57b} by e-mail with a hyperlink to the URL of a voting campaign)** [Column 13, lines 56-58, Column 18, lines 45-60] wherein the email message provided to each eligible voter includes a hyperlink **(URL)** to the voting website [Column 13, lines 56-58, Column 18, lines 45-63];

receiving consent **(registration)** information corresponding to at least a portion of the plurality of potential voters based on responses **(Registration involves the network server sending to a user a registration questionnaire page for a registration campaign dynamically constructed in accordance with the registration information stored in the database 15, and receiving and storing the**

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answers to the registration questions on the questionnaire; The registration campaign includes a registration questionnaire having several questions 164, the user name and assigned password of the registrant 166, the E-mail address of the registrant 168, and any after registration actions) provided by the at least a portion of the plurality of potential voters via the consent (registration campaign) website [Column 19, lines 2-30]; and

determining the plurality of eligible voters **(authenticating validation)** from the at least a portion of the plurality of potential **(registered)** voters based on the consent information **(registration information; user name and password entered matches the retrieved nickname and password of a registered user)** [Column 28, lines 13-14].

As per claims 7 and 26, Bayer et al. teaches the method of claim 1, wherein validating identify of the eligible voter to produce a validated voter further comprises:

receiving a user identity **(step 240 – requesting the registrant to enter their user name)** from the eligible voter;

receiving a password **(step 240 – requesting the registrant to enter their password)** from the eligible voter;

comparing the password with a stored password corresponding to the user identity **(step 242 – the registrant is authenticated if the user name and password entered matches the retrieved nickname and password)** to produce a comparison

result, wherein when the comparison result is favorable, the eligible voter is validated to produce a validated voter [Column 28, lines 5-25].

As per claims 9 and 27, Bayer et al. teaches the method of claim 1, wherein validating identity of the eligible voter to produce a validated voter further comprises:

detecting an electronic certificate **(VoteCookie, a Voting Digital ID generated by the network server 12 used for determining when a voter has voted previously for a survey in a voting campaign)** stored on a host device **(host computer)** associated with the eligible voter; and

comparing the electronic certificate **(VoteCookie)** with a validation certificate **(VoteLog table)** stored in a database to produce a comparison result, wherein when the comparison result is favorable **(no voting record found in the VoteLog table)**, the eligible voter is validated **(indicating that the user has not yet voted)** to produce a validated voter [Column 10, lines 26-30 and Column 14, lines 14-50].

As per claim 10, Bayer et al. teaches the method of claim 1, wherein compiling the voting information further comprises storing the voting information in a database **(information stored in said database further comprises the answers to each survey received from each voter, and adding the received answers to the information stored in the database)** [Claims 4-6].

As per claims 16 and 33, Bayer et al. teaches the method of claim 1 wherein providing the plurality of eligible voters with access to the voting website further comprises:

providing a consent notification **(sending an email message)** to a potential voter of a plurality of potential voters, wherein the consent notification notifies the potential voter of the consent website **(network server 12 operates in accordance with software representing programmed instructions providing a voting site 22 and a registration site 24 on network 20; at the registration site on the network 20, pages, preferably in HTML, are provided to a connected network client computer 18 enabling a voter or other registrant, to register with system 10 in their preferred language; the network server automatically creates a unique URL for the new voting campaign, such that a voting campaign is accessed by a voter by requesting a connection to the network server 12 at this URL. The URL is stored in the ReferrLink data field of the vote-campaign record. The administrator may then assign a link to the registration site. When a registration campaign is created (added), a network site address (URL) is created by and on the network server 12.. This URL is returned as information to the administrator at the registration site's administrative interface, who may record it for future reference. It is this URL which the administrator may provide to store in the ReferrLink field to assign a registration campaign. It accomplishes the hyperlinkage between the voting site and the associated registration campaign at the registration site, if desired; Similar to a voting campaign, each registration campaign has an assigned URL.**

An embedded hyperlink to a particular URL of an associated registration campaign may be provided in the results page provided by the voting site, such that a voter at the voting site may link (connect) to the associated registration campaign at the registration site. The registration campaigns at the registration site operate independently of voting campaigns in system 10, but provide a means of obtaining registration information about voters which may be used to later solicit voters {via invitation 57b} to a particular voting campaign, such as by E-mail with hyperlink to the URL of a voting campaign. Similar to a voting campaign, the URL of a registration campaign may be in an embedded hyperlink offered to a visitor of another site on the network) [Column 5, lines 42-44, 53-58, Column 12, lines 6-24, Column 18, lines 45-63];

receiving consent **(registration)** information corresponding to at least a portion of the plurality of potential voters based on responses **(user name, password and email address)** provided by the at least a portion of the plurality of potential voters via the content **(registration)** website [Column 19, lines 24-30]; and

determining the plurality of eligible voters **(authenticating validation)** from the at least a portion of the plurality of potential **(registered)** voters based on the consent **(registration)** information [Column 28, lines 13-14].

As per claim 18, Bayer et al. teaches a voting management processor, comprising:

a processing module (**computer system represented by network server 12**);
and

memory (**element 14 of Figure 1**) operably coupled to the processing module,
wherein the memory stores operating (**programmed**) instructions that, when executed
by the processing module, cause the processing module to perform functions that
include:

providing notification of a voting website to a plurality of eligible voters,
wherein the notification is provided via an email message sent to each eligible voter of
the plurality of eligible voters, wherein the notification provides the plurality of eligible
voters with access to the voting website (**an invitation 57b may be a hyperlink to the
URL of a voting or registration campaign embedded in a page offered by another
site to a network client computer 18 or contained in E-mail**) [Column 13, lines 56-58
and Column 18, lines 55-63];

for each eligible voter of the plurality of eligible voters that accesses the
voting website, validating (**authenticating**) identity of the eligible (**registered**) voter to
produce a validated voter (**step 242**) [Column 28, lines 13-14];

receiving voting information (**answers to survey questions**) from
validated voters [Claim 1]; and

compiling the voting information (**adding received answers to
information stored in a database**) from the validated voters to produce the voting
result [Claim 5].

As per claim 21, Bayer et al. teaches the voting management processor of claim 20, wherein the voter database (**database 15 of Figure 1 storing voting information, such as VoteLog table 44 that defines a log for each voter with the voting site of system 10 and Tally table 46 records a tally of the vote totals for each of the answers to the questions for each survey; EMAIL ADDRESS 168; The registration campaign 162 includes the E-mail address of the registrant 168**) is stored in the memory (**element 14 of Figure 1**) [Figures 1 and 15, and Column 5, lines 12-15, Column 6, lines 66-67, Columns 7-10, Column 19, lines 25-28].

As per claim 22, Bayer et al. teaches the voting management processor of claim 20, wherein the voter database (**database 15**) is accessed by the voting management processor (**computer system operating in accordance with software; database 15 is stored on memory 14, and transaction server 16 is connected to the memory 14 which enables the network server 12 to access and update records in tables of the database 15. The network server 12 enables network connections to computers 18 through a network 20, such as the Internet or World Wide Web; each of the computers 18 represents a network client when connected to network server 12, such that the network server 12 performs tasks at the commands of the network client**) over a network (**network server 12 and network 20; network server 12 is coupled to transaction server 16; administrator computer 17 connects to network server 12 via network 20; The network server 12 can send data representing transactions to the transaction server 16 to either access (read, retrieve, search, or query) records in a particular table, or update (add, modify or**

delete) a record in a particular table of the database; An administrator computer 17, like computers 18, can connect to the network server 12, via network 20.

Alternatively, the administrator computer 17 can connect directly to the network server 12 by a LAN 19 to which both the network server 12 and administrator computer 17 are connected) [Figure 1; Column 5, lines 10-18, 25-28, 39-40, 42-44, Column 5, line 65 – Column 6, line 2, Column 6, lines 11-22].

As per claim 23, Bayer et al. teaches the voting management processor of claim 20, wherein the memory stores additional **(programmed)** instructions such that the functions performed by the processing module **(network server 12 operates in accordance with software representing programmed instructions providing a voting site 22 and a registration site 24 on network 20; transaction server 16 represents a computer system connected to memory 14 and programmed in accordance with database software; The system of Bayer et al. embodies a system that includes a programmed computer system representing at least one network server which provides an addressable voting site and registration site on the network, and a database storing voting information for dynamically building surveys. A computer of each of the voters is programmed with network browser software such that a connection to the network server over the network can be established at one of the multiple Universal Resource Locators addressing the voting site)** include providing a plurality of hyperlinks on the voting website, wherein a first hyperlink of the plurality of hyperlinks directs an eligible voter to a voting page **(URL of a registration/voting campaign)** and a second **(embedded)** hyperlink of the

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plurality of hyperlinks directs the user to documentation related to the voting issue (**URL of an associated campaign**) [Column 2, lines 38-54, Column 5, lines 42-44, 59-61 and Column 18, lines 49-55].

As per claim 28, Bayer et al. teaches the voting management processor of claim 18, wherein compiling the voting information further comprises storing the voting information (**whether or not a voter voted and who they voted for**) in the memory (**multiple records in tables of database 15 store voting information. The voting information includes records stored in eighteen tables 30-47, as shown in Figures 3A-3R. The VoteLog table 44 defines a log for each voter with the voting site**) [Column 6, line 66 – Column 7, line 24, Column 14, lines 36-50, Figure 3O].

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 4, 6, 8, 11 – 15, 17, 25, 29 – 32, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Bayer et al.**

As per claim 4, Bayer et al. teaches the method of claim 1 further comprising providing a hyperlink on the voting website, wherein a first hyperlink of the plurality of hyperlinks directs an eligible voter to a voting page (**URL of a registration/voting campaign**) and a second (**embedded**) hyperlink of the plurality of hyperlinks directs the user to documentation related to the voting issue (**URL of an associated campaign**) [Column 18, lines 49-55].

Although the hyperlinks of Bayer et al. do not explicitly direct the user to documentation related to a voting issue, it has been admitted as prior art, as a result of evidentiary support of Official Notice taken that using hyperlinks to providing additional related documentation is old and well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include the step of providing additional related documentation, because doing so enhances the voting campaign sites of Bayer et al. by providing a central repository for voters to obtain information needed to make informed decisions.

Further, one of ordinary skill would have recognized that using hyperlinks to provide additional related information would have yielded predictable results and resulted in an improved system. It would have been recognized that applying the use of hyperlinks to the teachings of Bayer et al. would have yielded predictable results because the level of ordinary skill in the art demonstrated by Bayer et al. shows the ability to incorporate such features in an online, web-based system that relies upon URLs to direct users towards registration and voting campaign web pages. Applying hyperlinks to provide additional related information would have been recognized by those of ordinary skill in the art as resulting in an improved system that would provide users with convenient access to relevant information that is made available to all voters, eliminating the need for each user to conduct individual research, thus providing more informed voters to make an informed decision when voting.

As per claims 6, 17, 25 and 34, Bayer et al. teaches the method of claim 5, consent information includes consent to vote electronically and consent to receive documentation electronically **{Bayer et al. teaches user participation in surveys over a computer-based network; thus, the user registration to participate in said surveys is indicative of the user's consent to receive electronic documentation, such as survey questions}**, wherein at least one hyperlink is provided on the voting website, wherein a first hyperlink directs an eligible voter to a voting page **(URL of a registration/voting campaign)** when the eligible voter has consented to vote

electronically **{the act of registration is deemed to be an act of consenting to electronic voting}**, and a second **(embedded)** hyperlink directs the eligible voter to documentation related to the voting issue **(URL of an associated campaign)** when the eligible voter has consented to receive documentation electronically [Column 18, lines 49-55].

As per claim 8, although Bayer et al. authenticates users upon receiving user name and password **(network server sends a page to the registrant requesting the registrant to enter their user name and password, step 240. The registrant is authenticated if the user name and password entered matches the retrieved nickname and password, step 242)** [Column 28, lines 9-15], Bayer et al. does not explicitly teach that this is performed using a secure data communication protocol.

However, it has been admitted as prior art, as a result of evidentiary support of Official Notice taken that the use of secure data communication protocols is old and well known in the computing arts. For example, the Secure Sockets Layer (SSL) and Hypertext Transfer Protocol over Secure Socket Layer (HTTPS) protocols are used to encrypt electronic data communications. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to use a secure data communication protocol because doing so enhances Bayer et al. by providing secure communications for authentication and encrypting communication in security-sensitive communication such as logons or voting.

Further, one of ordinary skill would have recognized that using a secure data communication protocol to authenticate users would have yielded predictable results and resulted in an improved system. Applying a secure data communication protocol to the teachings of Bayer et al. would have been recognized by those of ordinary skill in the art as resulting in an improved system that would allow a secure means of authenticating users to prevent tampering and forgery.

As per claims 11 and 29, Bayer et al. teaches the storing the voting information **(answers to survey questions received from each voter)** [Claim 5], generating of email messages **(solicit voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign)** [Column 18, lines 58-60], and tallying votes to determine winners **(received answers to the questions are added to records in the database tallying the totals for each response... a summary of the results of the survey is then constructed and transmitted to the voter's computer)** [Abstract], but does not explicitly teach the step of sending email messages including voting information corresponding to at least one eligible voter to a transfer agent, or the compiling of voting information (to produce the voting result) being performed by a transfer agent.

However, it has been admitted as prior art, as a result of evidentiary support of Official Notice taken that the use of transfer agents to oversee the polling and counting of votes in an election are old and well known in the art. For example, banks and voting officials act as proxies that administer elections, tally votes, and determine winners.

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Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include emailing messages including voting information to transfer agents for compilation and determination of a winner, because doing so enhances Bayer et al. by ensuring accuracy and impartiality and so that received votes can be tallied and verified and a winner can be determined while ensuring that ballots are not tampered with in case of a need of a recount.

Further, one of ordinary skill would have recognized that using email to send transfer agents the voting information necessary to compile said voting information would have yielded predictable results and resulted in an improved system. Applying the use of emails to provide transfer agents with the information needed to compile voting results would have been recognized by those of ordinary skill in the art as resulting in an improved system that would allow a digital means of providing transfer agents with the voting information they need to compile voting results at a central location, eliminating the need for a transfer agent to be present at each voting location.

As per claims 12 and 30, Bayer et al. is silent regarding the encryption of an email message prior to sending the at least one transfer agent email message to the transfer agent.

However, it has been admitted as prior art, as a result of evidentiary support of Official Notice taken that email encryption is old and well known in the art. Therefore, it

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would have been obvious to one of ordinary skill to modify the teachings of Bayer et al. by including the encryption of email messages, because doing so enhances Bayer et al. by ensuring voter privacy and preventing tampering with election results.

Further, one of ordinary skill would have recognized that using email data encryption to send emails with voting information to transfer agents would result in an improved system. Applying email encryption to the teachings of Bayer et al. would have been recognized by those of ordinary skill in the art as resulting in an improved system that would allow a secure providing information while preventing tampering and forgery.

As per claims 13 and 31, Bayer et al. teaches the storing the voting information **(answers to survey questions received from each voter)** [Claim 5], generating of email messages **(solicit voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign)** [Column 18, lines 58-60], tallying votes to determine winners **(received answers to the questions are added to records in the database tallying the totals for each response... a summary of the results of the survey is then constructed and transmitted to the voter's computer)** [Abstract], and having default settings **(setting a default language for the voting campaign if a voter does not select a language defined for the campaign)** [Column 8, lines 57-59] and disclosing default voting information corresponding to eligible voters that failed to vote using the voting website **(DefaultFlag, a bit indicating whether or not this response should be preselected, i.e., checked or otherwise denoted as an answer on the questionnaire for purposes of assisting the registrant when the response is**

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generally true for most registrants; DefaultFlag is a bit defining that the response should be prefilled with the value of MinValue "1" or not prefilled "0") [Column 22, lines 5-9, 19-21], but does not explicitly teach the step of sending email messages including voting information corresponding to at least one eligible voter to a transfer agent.

However, it has been admitted as prior art, as a result of evidentiary support of Official Notice taken that the use of transfer agents to oversee the polling and counting of votes in an election are old and well known in the art. For example, banks and voting officials act as proxies that administer elections, tally votes, and determine winners. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include emailing messages including voting information to transfer agents for compilation and determination of a winner, because doing so enhances Bayer et al. by ensuring accuracy and impartiality and so that received votes can be tallied and verified and a winner can be determined while ensuring that ballots are not tampered with in case of a need of a recount.

Further, one of ordinary skill would have recognized that sending transfer agents the voting information necessary to compile said voting information would have yielded predictable results and resulted in an improved system. Applying the use of emails to provide transfer agents with the information needed to compile voting results would have been recognized by those of ordinary skill in the art as resulting in an improved

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system that would allow a digital means of providing transfer agents with the voting information they need to compile voting results at a central location, eliminating the need for a transfer agent to be present at each voting location.

Further, it has been admitted as prior art, as a result of evidentiary support of Official Notice taken that absentee ballots are an old and well known mechanism in the voting arts used by registered voters who are unable to vote at an official polling station. For example, postal voting may be used to count the votes cast by registered voters who are unable to vote via a voting website on the Internet. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include voting information corresponding to eligible voters that failed to vote using the voting website, because doing so expands the ability of Bayer et al. to collect voter feedback by improving voter turnout and increasing the amount of feedback in determining a winner.

One of ordinary skill would have recognized that the use of absentee ballots would have yielded predictable results and resulted in an improved system. Applying the use of absentee ballots to the teachings of Bayer et al. would have been recognized by those of ordinary skill in the art as resulting in an improved system that would provide potential voters with an opportunity to participate in elections even when unable to physically participate during the actual voting period, or unable to vote via a voting website.

As per claims 14 and 32, Bayer et al. teaches the storing the voting information in a database **(answers to survey questions received from each voter)** [Claim 5], and generating email messages **(solicit voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign)** [Column 18, lines 58-60], but does not explicitly teach the step of transferring the contents of a database to a transfer agent.

However, it has been admitted as prior art, as a result of evidentiary support of Official Notice taken that the use of transfer agents to oversee the polling and counting of votes in an election are old and well known in the art. For example, banks and voting officials act as proxies that administer elections, tally votes, and determine winners. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include emailing messages including voting information to transfer agents for compilation and determination of a winner, because doing so enhances Bayer et al. by ensuring accuracy and impartiality and so that received votes can be tallied and verified and a winner can be determined while ensuring that ballots are not tampered with in case of a need of a recount.

Further, one of ordinary skill would have recognized that sending transfer agents the voting information necessary to compile said voting information would have yielded predictable results and resulted in an improved system. Applying the use of emails to

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provide transfer agents with the information needed to compile voting results would have been recognized by those of ordinary skill in the art as resulting in an improved system that would allow a digital means of providing transfer agents with the voting information they need to compile voting results at a central location, eliminating the need for a transfer agent to be present at each voting location.

As per claim 15, although Bayer et al. teaches the use of a network (**network 20; the network is the Internet or World Wide Web, but other wide area networks may be used**) [Column 5, lines 17-19] to send email messages (**invitation 57**), [Figures 1, 10] and provide access to websites on a network (**network server 12 operates in accordance with software representing programming instructions providing a voting site 22 and a registration site 24 on network 20**) [Column 5, lines 42-44], but does not explicitly disclose that said email to voters is delivered via an internal network, that said website access is provided via the internal network, or that email messages to the transfer agent are delivered via an external network.

However, it has been admitted as prior art, as a result of evidentiary support of Official Notice taken that it is old and well known in the computing arts that email and website access may be provided using internal and/or external networks. For example, an intranet (i.e., internal) network may be a localized version of the Internet, confined to an organization, whereas an external network (i.e., extranets, the Internet), may be accessed by users spanning multiple organizations. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings

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of Bayer et al. to use internal networks to provide website access, because doing so limits access to websites to local users of a network (in an internal network), which prevents participation by unauthorized voters from external networks. Similarly, it would have been obvious to one of ordinary skill in the art at the time of invention to use internal networks to provide email to voters located within a local network to limit voter participation to authorized voters, and use external networks to email parties such as transfer agents located outside the internal network, because doing so enhances Bayer et al. by allowing users to provide access to information only to specifically authorized parties located outside the internal network.

Further, one of ordinary skill would have recognized that using internal networks for voting and external networks for send voting information e-mails to transfer agents in order to compile said voting information would have yielded predictable results and resulted in an improved system. Applying the use of internal networks to conduct voting would have been recognized by those of ordinary skill in the art as resulting in an improved system that would only allow users with proper access authorization to participate in the election as a means of preventing voter fraud and ballot tampering. Similarly, applying the use of external networks to send voting information e-mails to transfer agents would have been recognized by those of ordinary skill in the art as resulting in an improved system that provides users with a digital means of providing transfer agents with the voting information they need to compile voting results at a

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central location, eliminating the need for a transfer agent to be present at each voting location.

11. Claims 35-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Bayer et al.** (US Patent #6,311,190) and further in view of **Kilian et al.** (US Patent #6,092,051).

As per claim 35, Bayer et al. teaches a voting system, comprising:

a first network (**network 20 of Figure 1**);

a voting server (**network server 12 of Figure 1**) operably coupled to the first network; and

a plurality of clients (**computer 18 of Figure 1**) operably coupled to the first network, where each of the plurality of clients provides access to the voting server to a portion of a plurality of potential voters, wherein the voting server performs functions that include:

receiving consent (**registration**) information corresponding to at least a portion of the plurality of potential voters based on responses (**user name, password and email address**) provided by the at least a portion of the plurality of potential voters via the content (**registration**) website [Column 19, lines 24-30];

determining the plurality of eligible voters (**authenticating validation**) from the at least a portion of the plurality of potential (**registered**) voters based on the consent (**registration**) information [Column 28, lines 13-14];

sending voting notification email message to the plurality of eligible voters
(solicit voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign) [Column 18, lines 45-60], wherein the voting notification email messages provide access to a voting website **(an embedded hyperlink to a particular URL of an associated registration campaign may be provided in the results page provided by the voting site, such that a voter at the voting site may link to the associated registration campaign at the registration site)** managed by the voting server **(voting site 22, registration site 24; in addition to enabling voting on surveys in multiple campaigns at voting site 22, system 10 allows voters, or other registrants, to register under one of multiple registration campaigns through a registration questionnaire at registration site 24)** [Column 13, lines 56-58, Column 18, lines 45-60];

for each eligible voter of the plurality of eligible voters that accesses the voting website, validating **(authenticating)** identity of the eligible **(registered)** voter to produce a validated voter **(step 242)** [Column 28, lines 13-14];

receiving voting information **(answers to survey questions)** from validated voters [Claim 1]; and

compiling the voting information **(adding received answers to information stored in a database)** from the validated voters to produce the voting result [Claim 5].

Although Bayer et al. teaches sending/transmitting electronic data between parties in an election, Bayer et al. does not explicitly teach the step of securely transferring the voting result in electronic form to an agent system. However, Kilian et al. teaches securely transferring the voting result in electronic form to an agent system **(voting using a “secure untappable channel”, where a message can be sent from a center without being accessed or detected by another party; Each voter submits one of the received votes to the counting center through a secure anonymous channel. Then the counting center tallies the votes; The vote chosen by the vote choosers are transferred anonymously through a secure anonymous channel 18 to a vote counting center 15. The secure anonymous channel can be realized by the mixing centers 14 where encrypted votes are successively processed by the mixing centers until the vote counting center 16 provides as its output a randomly untraceably ordered set of unencrypted votes, and the outcome of the tally; The vote chooser 12 follows the process verification 24 and selection 2, and outputs selected votes from the encrypted votes on the bulletin board. The selected votes of all the vote choosers 12 are anonymously transferred to vote counter 15 through anonymous channel 18)** [Column 1, lines 57-62; Column 2, lines 47-49, Column 3, lines 29-42, Column 7, lines 18-21].

Both Bayer et al. and Kilian et al. are directed towards conducting electronic voting elections; therefore, they are analogous references. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the

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teachings of Bayer et al. to include the step of securely transferring voting results in electronic form to an agent system, as taught by Kilian et al., because doing so enables Bayer et al. to maintain the confidentiality of the voting process while preventing tampering and forgery and also provides voting results to a third party for processing, tallying, validation and verification.

As per claim 36, Bayer et al. teaches the voting system of claim 35 wherein the functions performed by the voting server further include:

sending an email message to potential voters (**solicit voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign**)

[Column 18, lines 45-60].

As per claim 37, Bayer et al. teaches the voting system of claim 35 further comprising:

a voting server (**network server 12 of Figure 1**) compiles the voting information such that compiling includes:

generating at least one email message (**solicit voters to a particular voting campaign by e-mail**) and storing voting information in a database (**answers to survey questions received from each voter**) [Claim 5].

Bayer et al. does not explicitly teach that transfer agents are sent emails voting information corresponding to eligible voters for compilation and producing the voting result.

However, it has been admitted as prior art, as a result of evidentiary support of Official Notice taken that the use of transfer agents to oversee the polling and counting of votes in an election are old and well known in the art. For example, banks and voting officials act as proxies that administer elections, tally votes, and determine winners. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include emailing messages including voting information to transfer agents for compilation and determination of a winner, because doing so enhances Bayer et al. by ensuring accuracy and impartiality and so that received votes can be tallied and verified and a winner can be determined while ensuring that ballots are not tampered with in case of a need of a recount.

Further, one of ordinary skill would have recognized that using email to send transfer agents the voting information necessary to compile said voting information would have yielded predictable results and resulted in an improved system. Applying the use of emails to provide transfer agents with the information needed to compile voting results would have been recognized by those of ordinary skill in the art as resulting in an improved system that would allow a digital means of providing transfer agents with the voting information they need to compile voting results at a central location, eliminating the need for a transfer agent to be present at each voting location.

Bayer et al. is also silent regarding the presence of a second network coupled to the voting server and a transfer agent being operably coupled to that second network.

However, it has been admitted as prior art, as a result of evidentiary support of Official Notice taken that it is old and well known in the computing arts that email and website access may be provided using internal and/or external networks. For example, an intranet (i.e., internal) network may be a localized version of the Internet, confined to an organization, whereas an external network (i.e., extranets, the Internet), may be accessed by users spanning multiple organizations. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to use external networks coupled to the network of Bayer et al., because doing so enhances Bayer et al. by allowing users to provide access to information by email only to specifically authorized parties located outside the existing network.

Further, one of ordinary skill would have recognized that using internal networks for voting and external networks for send voting information e-mails to transfer agents in order to compile said voting information would have yielded predictable results and resulted in an improved system. Applying the use of internal networks to conduct voting would have been recognized by those of ordinary skill in the art as resulting in an improved system that would only allow users with proper access authorization to participate in the election as a means of preventing voter fraud and ballot tampering. Similarly, applying the use of external networks to send voting information e-mails to

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transfer agents would have been recognized by those of ordinary skill in the art as resulting in an improved system that provides users with a digital means of providing transfer agents with the voting information they need to compile voting results at a central location, eliminating the need for a transfer agent to be present at each voting location.

As per claim 38, Bayer et al. teaches a voting system wherein the first network is a secure internal network **{network 20 requires authentication of users to access voting site 22}**.

Bayer et al. does not explicitly teach a second, external network, or that the voting information included in the at least one transfer agent email message is encrypted prior to being sent to the transfer agent.

However, it has been admitted as prior art, as a result of evidentiary support of Official Notice taken that it is old and well known in the computing arts that email and website access may be provided using internal and/or external networks. For example, an intranet (i.e., internal) network may be a localized version of the Internet, confined to an organization, whereas an external network (i.e., extranets, the Internet), may be accessed by users spanning multiple organizations. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to use external networks coupled to the network of Bayer et al., because doing so enhances Bayer et

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al. by allowing users to provide access to information by email only to specifically authorized parties located outside the existing network.

Further, one of ordinary skill would have recognized that using internal networks for voting and external networks for send voting information e-mails to transfer agents in order to compile said voting information would have yielded predictable results and resulted in an improved system. Applying the use of internal networks to conduct voting would have been recognized by those of ordinary skill in the art as resulting in an improved system that would only allow users with proper access authorization to participate in the election as a means of preventing voter fraud and ballot tampering. Similarly, applying the use of external networks to send voting information e-mails to transfer agents would have been recognized by those of ordinary skill in the art as resulting in an improved system that provides users with a digital means of providing transfer agents with the voting information they need to compile voting results at a central location, eliminating the need for a transfer agent to be present at each voting location.

Further, it has been admitted as prior art, as a result of evidentiary support of Official Notice taken that email encryption is old and well known in the art. Therefore, it would have been obvious to one of ordinary skill to modify the teachings of Bayer et al. by including the encryption of email messages, because doing so enhances Bayer et al. by ensuring voter privacy and preventing tampering with election results.

One of ordinary skill would have recognized that using email data encryption to send emails with voting information to transfer agents would result in an improved system. Applying email encryption to the teachings of Bayer et al. would have been recognized by those of ordinary skill in the art as resulting in an improved system that would allow a secure providing information while preventing tampering and forgery.

As per claim 39, Bayer et al. teaches the step of a broker server (**network server 12**) collecting voting information from a plurality of broker clients (**registered voters**), and compiling said collected voting information to produce the voting result (**received answers to the questions are added to records in the database tallying the totals for each response... a summary of the results of the survey is then constructed and transmitted to the voter's computer**) [Abstract]

Bayer et al. does not explicitly teach a second, external network used to send (i.e., forward) voting information to the transfer agent in the at least one transfer agent email message or the use of a transfer agent to compile the voting information in the at least one transfer agent email message with the broker client voting information to produce the voting result.

However, it has been admitted as prior art, as a result of evidentiary support of Official Notice taken that it is old and well known in the computing arts that email and website access may be provided using internal and/or external networks. For example,

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an intranet (i.e., internal) network may be a localized version of the Internet, confined to an organization, whereas an external network (i.e., extranets, the Internet), may be accessed by users spanning multiple organizations. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to use external networks coupled to the network of Bayer et al., because doing so enhances Bayer et al. by allowing users to provide access to information by email only to specifically authorized parties located outside the existing network.

Further, one of ordinary skill would have recognized that using internal networks for voting and external networks for send voting information e-mails to transfer agents in order to compile said voting information would have yielded predictable results and resulted in an improved system. Applying the use of internal networks to conduct voting would have been recognized by those of ordinary skill in the art as resulting in an improved system that would only allow users with proper access authorization to participate in the election as a means of preventing voter fraud and ballot tampering. Similarly, applying the use of external networks to send voting information e-mails to transfer agents would have been recognized by those of ordinary skill in the art as resulting in an improved system that provides users with a digital means of providing transfer agents with the voting information they need to compile voting results at a central location, eliminating the need for a transfer agent to be present at each voting location.

Further, it has been admitted as prior art, as a result of evidentiary support of Official Notice taken that the use of transfer agents to oversee the polling and counting of votes in an election are old and well known in the art. For example, banks and voting officials act as proxies that administer elections, tally votes, and determine winners. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include emailing messages including voting information to transfer agents for compilation and determination of a winner, because doing so enhances Bayer et al. by ensuring accuracy and impartiality and so that received votes can be tallied and verified and a winner can be determined while ensuring that ballots are not tampered with in case of a need of a recount.

One of ordinary skill would have recognized that using email to send transfer agents the voting information necessary to compile said voting information would have yielded predictable results and resulted in an improved system. Applying the use of emails to provide transfer agents with the information needed to compile voting results would have been recognized by those of ordinary skill in the art as resulting in an improved system that would allow a digital means of providing transfer agents with the voting information they need to compile voting results at a central location, eliminating the need for a transfer agent to be present at each voting location.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PETER CHOI whose telephone number is (571)272-6971. The examiner can normally be reached on M-F 10-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. C./

Examiner, Art Unit 3623

/Jonathan G. Sterrett/

Primary Examiner, Art Unit 3623